



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

November 28, 1989

Honorable John C. Dickerson, III
Matagorda County Attorney
1700 Seventh Street
Bay City, Texas 77414

LO-89-99

Dear Mr. Dickerson:

You ask whether a county commissioner may direct county employees to mow privately-owned vacant lots in unincorporated portions of the county for "fire protection, mosquito and rodent control, and the safety of children since they play on these lots." We understand you to be asking whether an individual commissioner, rather than the commissioners court, can take such action.

The Texas Constitution establishes the commissioners court as the governing body of a county. Tex. Const. art. V, § 18. Individual members of the commissioners court, however, have no authority to bind the county by their separate actions. Canales v. Laughlin, 214 S.W.2d 451 (Tex. 1948). In Rowan v. Pickett, 237 S.W.2d 734 (Tex. Civ. App. - San Antonio 1951, no writ), the court considered a situation similar to the one you describe. In Rowan individual county commissioners had agreed with land owners to use county equipment to do soil conservation work on private property. Although a statute authorized the use of county equipment for that purpose, the court pointed out that the statute authorized the commissioners court, not the individual commissioners, to authorize such work. The court wrote:


[The statute] does not authorize nor permit county matters to be decided by the single decision of the commissioner for his precinct.

That the Commissioners' Court is something more than the individuals composing the body is no longer an open question.

Id. at 737; see also Stoval v. Shivers, 103 S.W.2d 363 (Tex. Comm'n App. 1937, opinion adopted); cf. V.T.C.S. art. 6702-1, §§ 3.001 - 3.004 (county commissioners as ex officio road commissioners).

An individual county commissioner has no authority to direct county employees to mow privately-owned lots. Whether the county, acting through the commissioners court, could undertake such an activity would depend on whether a statute authorized such activity either expressly or by necessary implication. See Canales v. Laughlin, supra (counties have only those powers granted, either expressly or by necessary implication, by statutes or constitution).

Very truly yours,



Sarah Woelk, Chief
Letter Opinion Section



Rick Gilpin, Chairman
Opinion Committee

SW/lcd

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